

By Representatives Rodne and Goodman

HB 1384 - H COMM AMD

By Committee on Judiciary

On page 4, after line 9, insert the following:

"Sec. 3. RCW 7.90.170 and 2013 c 74 s 9 are each amended to read as follows:

(1) Upon ~~((receipt of))~~ a motion ~~((to))~~ with notice to all parties and after a hearing, the court may terminate or modify the terms of an existing sexual assault protection order, including terms entered pursuant to RCW 9.41.800 related to firearms or other dangerous weapons or to concealed pistol licenses.

(2) (a) A respondent's motion to terminate or modify a sexual assault protection order must include a declaration setting forth facts supporting the requested order for termination or modification. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(b) The court may terminate or modify the terms of a sexual assault protection order, including terms entered pursuant to RCW 9.41.800 related to firearms or other dangerous weapons or to concealed pistol licenses, if the respondent proves by a preponderance of the evidence that there has been a material change in circumstances such that the respondent is not likely to engage in or attempt to engage in physical or nonphysical contact with the persons protected by the protection order if the order is terminated

1 or modified. The petitioner bears no burden of proving that he or
2 she has a current reasonable fear of harm by the respondent.

3 (c) A respondent may file a motion to terminate or modify
4 pursuant to this section no more than once in every twelve-month
5 period that the order is in effect, starting from the date of the
6 order and continuing through any renewal.

7 (d) A court may require the respondent to pay the petitioner for
8 costs incurred in responding to a motion to terminate or modify
9 pursuant to this section, including reasonable attorneys' fees.

10 (3) The court shall order that a hearing on the motion for
11 termination or modification of the order be held not later than
12 fourteen days from the date of the order. The ~~((respondent))~~
13 nonmoving party shall be personally served not less than five days
14 before the hearing. If timely service cannot be made, the court
15 shall set a new hearing date and shall either require additional
16 attempts at obtaining personal service or permit service by
17 publication as provided in RCW 7.90.052 or service by mail as
18 provided in RCW 7.90.053. If the court permits service by mail or
19 service by publication, the court shall set the new hearing date not
20 later than twenty-four days from the date of the order. ~~((If the~~
21 ~~order expires because timely service cannot be made, the court shall~~
22 ~~grant an ex parte order of protection as provided in RCW 7.90.110.~~
23 ~~The court may modify the protection order for another fixed time~~
24 ~~period or may enter a permanent order as provided in RCW 7.90.120.~~
25 ~~(2))~~ (4) In any situation where an order is terminated or modified
26 before its expiration date, the clerk of the court shall forward on or
27 before the next judicial day a true copy of the modified order or the
28 termination order to the appropriate law enforcement agency specified
29 in the modified or termination order. Upon receipt of the order, the
30 law enforcement agency shall promptly enter it in the computer-based
31 criminal intelligence information system, or if the order is terminated,
32 remove the order from the computer-based criminal intelligence
33 information system."
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1 Correct the title.

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EFFECT: Revises the procedures for modifying a sexual assault protection order and allows for termination of these orders, upon a motion with notice to all parties and after a hearing is held on the motion.

Provides that modification can include changing terms that prohibit a person from obtaining or possessing a firearm or other dangerous weapon, or a concealed pistol license.

Requires a respondent petitioning for a modification or termination to include a declaration supporting the requested relief and allows nonmoving parties to file opposing declarations. Requires the court to deny the respondent's motion unless it finds that adequate cause for hearing the motion is established. If adequate cause is found, the court may terminate or modify the order after a hearing if the respondent proves by a preponderance of the evidence that there has been a material change in circumstances such that the respondent is not likely to engage in or attempt to engage in physical or nonphysical contact with the protected person if the order is terminated or modified.

Allows the respondent to file a motion no more than once in every 12 month period that the order is in effect. Provides that the court may require the respondent to pay a petitioner for costs in responding to a motion.

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